



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1994

Mr. D. Craig Wood
Foster, Lewis, Langley, Gardner & Banack
112 East Pecan, Suite 1100
San Antonio, Texas 78205-1533

OR94-317

Dear Mr. Wood:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 22434.

The Northside Independent School District in San Antonio has received an open records request for information listing the names of students attending a particular class at the Northside Secondary Alternative School. You explain that these students were "placed at the alternative school for various violations of Northside's Code of Student Conduct." You claim that the requested information is excepted from disclosure by sections 552.101 and 552.114 of the Government Code. We conclude, however, that you must withhold the requested information under section 552.026 of the Government Code.

Section 552.026 of the Government Code incorporates the Federal Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, into the Open Records Act and makes FERPA prevail over other inconsistent provisions of the Open Records Act. Open Records Decision No. 431 (1985) at 3. Section 552.026 provides:

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974

FERPA denies federal funds to an educational agency or institution if it has a policy or practice of releasing education records or personally identifiable information, other than directory information, contained in education records without the consent of the student's parents. 20 U.S.C. § 1232g(b)(1). "Education records" are defined in FERPA as records that "(i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution." *Id.*

§ 1232g(a)(4)(A). However, information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978).

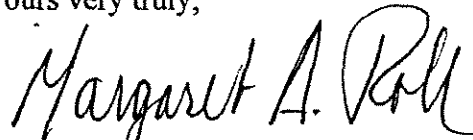
The records at issue in this case are "education records" under FERPA, and under the circumstances of this case, the information in the records does not qualify as directory information. The regulations promulgated under FERPA define directory information as follows:

Directory information means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended.

34 C.F.R. § 99.3. Normally, the names of students enrolled in a particular class would be directory information. See Open Records Decision No. 244 (1980) at 2. However, revealing the information requested here would reveal more than merely the identities of particular students enrolled in a particular class; it would also reveal something about the students' behavior in school, which is not directory information. Therefore, the names of students attending a particular class at the Northside Secondary Alternative School are education records that must be withheld under FERPA.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/JCH/SLG/rho

Ref.: ID# 22434

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